

DOCKET NO.: C1039.70048US02

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.
Serial No.: 10/817,165
Confirmation No.: 1597
Filed: April 2, 2004
For: IMMUNOSTIMULATORY NUCLEIC ACID MOLECULES
Examiner: Nita M. Minnifield
Art Unit: 1645

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 9th day of October, 2007.

Lisa M. Rosenberg
Lisa M. Rosenberg

MAIL STOP AMENDMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check in the amount of \$180.00 is enclosed to cover the filing fee. If the fee is insufficient, the balance may be charged to Deposit Account 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

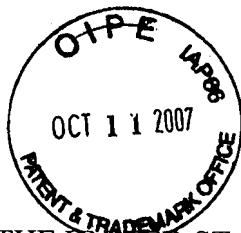
By:

Helen C. Lockhart
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Docket No.: C1039.70048US02

Date: October 5, 2007

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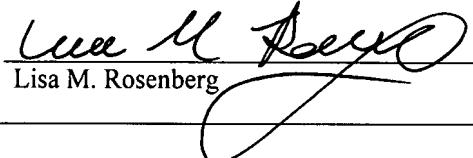
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Lisa M. Rosenberg

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office action, but before the mailing date of any final action under 37 C.F.R. §1.113, a Notice of Allowance under 37 C.F.R. §1.311, or an action that otherwise closes prosecution in this application.

The fee of \$180.00 as set forth in 37 C.F.R. §1.17(p) is enclosed.

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PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
09/316,199	05-21-1999	McCluskie et al.	*C1040.70006US00
09/337,584	06-21-1999	Krieg et al.	*C1039.70020US00
09/337,893	06-21-1999	Krieg	*C1039.70022US00
09/630,319	07-31-2000	Krieg et al.	*C1039.70042US00
09/669,187	09-25-2000	Krieg et al.	*C1039.70035US00
09/786,436	09-03-1999	Wagner et al.	**C1041.70010US00
10/187,489	07-02-2002	Krieg et al.	**C1039.70062US00
10/811,226	03-26-2004	Wagner et al.	*C1041.70005US01
11/542,845	10-04-2006	Krieg et al.	*C1037.70048US01
11/543,314	10-04-2006	Lipford et al.	*C1041.70036US02
11/595,823	11-10-2006	Wagner et al.	*C1041.70035US01
11/598,207	11-10-2006	Krieg et al.	*C1039.70048US24
11/629,106	12-08-2006	Lipford et al.	*C1041.70027US01
11/645,106	12-22-2006	Krieg et al.	*C1039.70083US17
11/706,561	02-15-2007	Uhlmann et al.	*C1041.70046US02
11/725,339	03-19-2007	Schetter et al.	*C1041.70019US01
11/810,353	06-05-2007	Krieg et al.	*C1039.70048US25

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
11/901,712	09-17-2007	Schetter et al.	C1039.70069US01

*A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

**A copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. 09/818,918, filed March 27, 2001, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

The Applicant would like to bring to the Examiner's attention the following other information:

Office Communication mailed 09/28/2006 for Application No. 10/769,282 (C1039.70048US01)
Office Communication mailed 03/22/2007 for Application No. 10/769,282 (C1039.70048US01)
Office Communication mailed 01/17/2007 for Application No. 10/888,785 (C1039.70048US07)
Office Communication mailed 05/16/2007 for Application No. 10/888,785 (C1039.70048US07)
Office Communication mailed 01/17/2007 for Application No. 10/888,449 (C1039.70048US08)
Office Communication mailed 05/16/2007 for Application No. 10/888,449 (C1039.70048US08)
Office Communication mailed 12/14/2006 for Application No. 10/894,862 (C1039.70048US10)
Office Communication mailed 05/18/2007 for Application No. 10/894,862 (C1039.70048US10)
Office Communication mailed 04/09/2007 for Application No. 10/928,762 (C1039.70048US11)
Office Communication mailed 08/03/2007 for Application No. 10/928,762 (C1039.70048US11)
Office Communication mailed 06/29/2007 for Application No. 11/031,460 (C1039.70048US16)
Office Communication mailed 06/19/2007 for Application No. 11/067,587 (C1039.70048US18)
Office Communication mailed 08/26/2004 for Application No. 10/435,656 (C1039.70071US00)
Office Communication mailed 12/23/2004 for Application No. 10/435,656 (C1039.70071US00)
Office Communication mailed 07/21/2005 for Application No. 10/435,656 (C1039.70071US00)
Office Communication mailed 04/25/2006 for Application No. 10/435,656 (C1039.70071US00)
Office Communication mailed 11/20/2006 for Application No. 10/435,656 (C1039.70071US00)
Office Communication mailed 06/29/2007 for Application No. 10/435,656 (C1039.70071US00)
Office Communication mailed 06/26/2006 for Application No. 10/434,696 (C1039.70072US00)
Office Communication mailed 09/26/2006 for Application No. 10/434,696 (C1039.70072US00)
Office Communication mailed 12/12/2006 for Application No. 10/434,696 (C1039.70072US00)
Office Communication mailed 07/10/2007 for Application No. 10/434,696 (C1039.70072US00)
Office Communication mailed 09/28/2006 for Application No. 10/690,495 (C1039.70083US00)

Office Communication mailed 03/27/2007 for Application No. 10/690,495 (C1039.70083US00)
Office Communication mailed 09/27/2006 for Application No. 10/769,626 (C1039.70083US01)
Office Communication mailed 11/22/2006 for Application No. 10/769,626 (C1039.70083US01)
Office Communication mailed 03/27/2007 for Application No. 10/769,626 (C1039.70083US01)
Office Communication mailed 09/27/2006 for Application No. 10/789,353 (C1039.70083US07)
Office Communication mailed 12/15/2006 for Application No. 10/789,353 (C1039.70083US07)
Office Communication mailed 03/28/2007 for Application No. 10/789,353 (C1039.70083US07)
Office Communication mailed 08/22/2007 for Application No. 10/888,885 (C1039.70083US09)
Office Communication mailed 12/04/2006 for Application No. 10/888,885 (C1039.70083US09)
Office Communication mailed 12/04/2006 for Application No. 10/888,089 (C1039.70083US10)
Office Communication mailed 08/09/2007 for Application No. 10/888,089 (C1039.70083US10)
Office Communication mailed 10/19/2006 for Application No. 11/067,516 (C1039.70083US11)
Office Communication mailed 02/27/2007 for Application No. 11/067,516 (C1039.70083US11)

The Applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,207,646 B1, which was involved in an Interference (Interference No. 105,171). In view of the priority, Applicants have included on the attached 1449 a listing of all of the motions filed, the judgment rendered by the Board of Patent Appeals and Interferences, appeal briefs, and appeal decision, which considered the 35 U.S.C. §135(b)(1) motion dispositive. Copies of these documents were previously submitted in Serial No. 09/818, 918, filed March 27, 2001, to which the instant application derives priority. Additionally, US patent application 09/337,584 with claims directed to the treatment of asthma is now in an Interference (No. 105,526). Copies of papers filed with respect to that Interference are submitted herewith. If the Examiner would like any additional

information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

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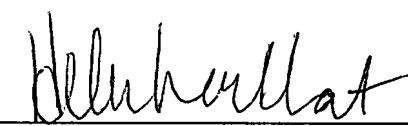
Art Unit: 1645

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:


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Telephone: (617) 646-8000

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